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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/528,391

03/18/2005

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Q86607

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23373 7590 07/29/2008
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EXAMINER

SAGER, MARK ALAN

ART UNIT

PAPER NUMBER

3714

MAIL DATE

DELIVERY MODE

07/29/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/528,391	Applicant(s) NAKAZAWA ET AL.	
	Examiner M. Sager	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/15/08</u> . | 6) <input type="checkbox"/> Other: _____ |

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 5/15/08 has been entered.

Allowable Subject Matter

2. The indicated allowability of claims 1-8 is withdrawn in view of the newly discovered reference(s) to Namco (JP2000-61142A). Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-8 are rejected under 35 U.S.C. 102(b) as anticipated by Namco (JP2000-61142A). Where means plus function language is used to define the characteristics of a machine or manufacture invention, such language must be interpreted to read on only the structures or materials disclosed in the disclosure and “equivalents thereof” that correspond to the recited function. Two en banc decisions of the Federal Circuit have made clear that the USPTO is to interpret means plus function language according to 35 U.S.C. § 112, sixth paragraph. In re

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Donaldson, 16 F.3d 1189, 1193, 29 USPQ2d 1845, 1848 (Fed. Cir. 1994) (en banc); In re Alappat, 33 F.3d 1526, 1540, 31 USPQ2d 1545, 1554 (Fed. Cir. 1994) (en banc). In this case, regarding claim 1 and 6-7, as provided by the partial translation rec'd 5/15/08, Namco discloses a game device, game control method, and computer program product comprising claimed features/steps (abstract, partial translation, figs 1-28) where the signal input means/step is as described page 8, line 6 to page 9, line 1, page 15, lines 4-13, fig -2B, references 34, 48, 50 of '391 disclosure correlates to a signal input unit of Namco (abstract, partial translation paragraph 1, ref 60, 62-63, 66), attack instruction signal input determining means/step is as described page 15, lines 4-13, page 16, lines 4-16, fig 10-11, reference 52 of '391 disclosure correlates to a processing unit of Namco (abstract, partial translation paragraph 1, ref 100), game character moving means/step as inputted by the signal input means/step while the attack instruction signal is not being inputted is as described page 8, lines 6-18, page 9, lines 2-6, page 15, lines 4-13, page 19, line 2-20, figs 1-2B and 10-11, reference 54 of '391 disclosure correlates to direction signal input while attack instruction signal is not being inputted to controller of Namco (abstract, partial translation paragraph 1, ref 60), attack direction changing means/step as direction signal inputted while the attack signal is inputted is page 8, line 6 to page 9, line 6, page 9, lines 13 to page 10, line 10, and page 15, lines 4-13, page 16, line 17 to page 17, line 10, figs 1-2B and 10-11, reference 56 of '391 disclosure correlates to attack instruction signal being inputted by attack button of Namco (abstract, partial translation paragraph 1-2, ref 66). Regarding claim 2, where the restricting of movement as described on page 16, line 17 to page 17, line 10 of '391 disclosure corresponds to restricting movement of character based on direction instruction signal by Namco (partial translation paragraph 1-2). Regarding claims 3-4, the data storage means/step

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as described on page 15, lines 4-13, page 15, lines 23 to page 16, line 3 of '391 disclosure correlates to storage for parts data representing posture and updating for the game character moving by Namco (partial translation paragraph 3-4, respectively). Regarding claim 5, the continuous attack of '391 disclosure at page 10, line 11-23 correlates to continuous attacking by Namco (partial translation paragraph 5). Regarding claim 8, the program distributing device as described regarding fig 13 of '391 disclosure correlates to a distribution system including a computer program product as detailed above comprising means for reading and means for delivering the program (see machine translation paragraph 130 of detailed description of Namco). Thus, Namco includes same structure performing same function as presently claimed.

Response to Arguments

5. Applicant's arguments with respect to claims 1-8 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Casio discloses a game apparatus and method teaching data storage of orientation of character/parts (fig 5). Hornbuckle, Reed and Rhoades each disclose a game device and method teaching distributing a game program from a server. Nakamura discloses a game device and method that provides a data storage for character parts.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Sager whose telephone number is 571-272-4454. The examiner can normally be reached on T-F, 0700-1730 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. Sager/
Primary Examiner, Art Unit 3714